

\*1 Office of the Attorney General  
State of Tennessee

Opinion No. 92-69  
December 28, 1992

Amendment of Service Charge Rate in E-911 Districts

Senator Jerry W. Cooper  
Room 309 War Memorial Building  
Nashville, Tennessee 37243-0214

QUESTION

If an E-911 Service District is established by referendum, as provided by state statute, and the parameters of such District are defined in the local referendum and local resolution, can these parameters (i.e. rate set to fund the E-911 service) be changed by subsequent amendments to the state statute without being placed before the people in another local referendum?

OPINION

The rate set to fund the E-911 service can be changed by a subsequent amendment to the state statute without being placed before the people in another local referendum.

ANALYSIS

Tenn.Code Ann. § 7-86-101, et seq. is the Emergency Communications District Act. It was enacted to provide a single, three-digit number (911) to provide a simplified means of securing emergency services. The Act permits the creation of a municipal corporation or district which would collect the necessary funds and contract with a service supplier who would furnish an emergency communications service.

Tenn.Code Ann. § 7-86-104 authorizes the legislative body of any municipality or county to create by ordinance or resolution an emergency communications district within all or part of the boundaries of such municipality or county. The question of creating such a district is to be submitted to the voters within the boundaries of the proposed district for a referendum election.

Tenn.Code Ann. 7-86-105 provides that upon approval by a majority of the eligible voters, the legislative body may create an emergency communications district and appoint a Board of Directors for the district. The Board of Directors

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is then authorized by Tenn.Code Ann. § 7-86-108(a) to assess a "service charge" to fund the emergency telephone service. The Board may levy such service charge in an amount not to exceed sixty-five cents (65 cents) per month for residence-classification service users, and not to exceed two dollars (\$2.00) per month for business-classification service users. Id.

In addition, the Board is directed by Tenn.Code Ann. § 7-86-112 to reduce the service charge rate or suspend the service charge, if the proceeds generated by such charge exceed the amount necessary to fund the service. Alternatively, if the amount of moneys generated is not adequate to fund the service, the Board may, by resolution, reestablish the service charge rate or lift the suspension.

With the enactment of the Emergency Communications District Act, the legislature has provided for the establishment of a district and given it limited powers in order to carry out a particular public purpose. Such a district is known as a quasi-municipal corporation. *Professional Home Health v. County General*, 759 S.W.2d 416, 419 (Tenn.Ct.App.1988) (citing 56 Am.Jur.2d Municipal Corporations § 13). "Although a quasi-municipal corporation is not in a strict sense a 'municipal corporation,' that term is often used in a generic sense to encompass a quasi-municipal corporation that was organized for an essential public purpose." *Professional Home Health v. County General*, 759 S.W. at 419 (citing 62 C.J.S. Municipal Corporations § 5).

\*2 A municipal or quasi-municipal corporation exists solely and alone by virtue of its act of incorporation, and it can exercise no powers but such as are expressly granted to it, and such as are the result of necessary and proper implication. *Smiddy v. City of Memphis*, 140 Tenn. 97, 203 S.W.2d 512 (1918). By its express provisions, Tenn.Code Ann. § 7-86-104 allows for legislatively established emergency communication districts upon the approval of the affected people. A referendatory vote is only required for the establishment of the district, not for acts amending or repealing such creation or establishment. In the absence of express language to the contrary, therefore, it is the opinion of this Office that a referendum is not required to amend the rate set to fund an E-911 district. Further, we are not aware of any constitutional prohibition that would be applicable. Consequently, the legislature can amend Tenn.Code Ann. § 7-86-108 which sets the amount of rate which can be charged by an E-911 district to fund such district. See *Chattanooga-Hamilton County Hospital Authority v. City of Chattanooga*, 580 S.W.2d 322, 327 (Tenn.1979).

It should be noted, however, that Tenn.Code Ann. § 7-86-112 expressly directs the Board of Directors of an E-911 District to reduce or suspend the service charge rate if the proceeds from such charge exceed the amount necessary to fund the service. Accordingly, while the legislature may amend the Act to increase the amount of the rate which can be charged, the Board of Directors of a District may not increase the service charge rate of that district if the proceeds from the current rate are adequate to fund the service.

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